IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 8379 of 2007(V)

PETITIONER:

S.MURUKESAN, LOWER DIVISION CLERK,
PALAKKAD MUNICIPALITY, PALAKKAD.

BY ADV. SRI.B.UNNIKRISHNA KAIMAL
SRI.V.MADHUSUDHANAN

RESPONDENTS:

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1. THE DIRECTOR OF URBAN AFFAIRS,
THIRUVANANTHAPURAM.

2. THE SECRETARY,
PALAKKAD MUNICIPALITY, PALAKKAD.

3. SMT.K.KRISHNAKUMARI, L.D.CLERK,
PALAKKAD MUNICIPALITY, PALAKKAD.

R1 BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.
R2 BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.8379 OF 2007-V.

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Dated this the 26th day of March, 2007.

J U D G M E N T

The petitioner and the 3rd respondent are Lower Division Clerks working in Palakkad Municipality. The petitioner is senior to the 3rd respondent. The petitioner and the 3rd respondent acquired the requisite test qualification in June, 2006. The particulars relating to the acquisition of the test qualification by the petitioner were furnished by the 2nd respondent to the 1st respondent Director of Urban Affairs as per Ext.P1 letter dated 16-2-2007. Similar particulars in relation to the 3rd respondent were furnished as per Ext.P2 letter dated 8-12-2006. The 1st respondent passed Ext.P3 order on 24-2-2007 directing the 3rd respondent and a few other Lower Division Clerks to the post of Upper Division Clerks against vacancies arose prior to Ext.P3 order. The petitioner's name does not

find a place in Ext.P3 though he is senior to the 3rd respondent.

2. It is contended that the omission to include the petitioner's name in Ext.P3 is only due to delay in communicating the particulars relating to the acquisition of qualification, and but for that, the 1st respondent would necessarily have included the petitioner also in Ext.P3.

3. Government pleader, on instructions, submits that Ext.P1 report dated 16-2-2007 reached the office of the 1st respondent only after Ext.P3. The petitioner's name would have been included in Ext.P3 had the particulars reached the 1st respondent in time.

4. It is seen that though Ext.P1 is dated 16-2-2007 that letter was despatched from the office of the 2nd respondent only on 23-2-2007. Ext.P3 was issued on 24-2-2007. In the light of the fact that the petitioner though entitled to be promoted as Upper Division Clerk along with those included in Ext.P3 and with effect from that order, lost his chance only due to the delay in ascertaining the details relating to

the acquisition of qualification. That being the position, it is only proper that the right of the petitioner for promotion is duly considered and he also is granted promotion to the post of Upper Division Clerk along with others, particularly respondent No.3 who has been promoted as per Ext.P3. The writ petition is allowed. In the light of the facts disclosed by the 1st respondent, notice is not issued to respondents 2 and 3. The 1st respondent is directed to pass appropriate orders rectifying the mistake or omission happened while issuing Ext.P3. This shall be done within two weeks from the date of receipt of a copy of this Judgment.

K.K.DENESAN, JUDGE.

kvs/-